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Serial No. 10/015,631

REMARKS

Claim 1 is pending in this application; Claims 2-17 have been cancelled without prejudice. Claim 1 has been amended to clarify the claimed invention.

Claims 1, 5-7, 9, 13-15, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by or, in alternative, under 35 U.S.C. 103(a) as obvious by Miller (U.S. 6,709,442) or Miller (U.S. 6,837,893), referred to collectively as "Miller". Applicants traverse this rejection. Claims 2-17 have been cancelled, thereby mooted the rejection with respect to those claims.

Claim 1, as amended, claims a delivery device having, among other elements, a plurality of fasteners sized to be contained within the hollow member serially with respect to one another along the longitudinal axis. Miller does not describe or suggest a delivery device, as Miller only depicts a device capable of delivering a single fastener (see Figs 5 and 19) or a plurality of fasteners that are not arranged serially with respect to one another along the longitudinal axis (see Fig 10). As a result, for this and further reasons not described at this stage, Applicants submit that Miller does not anticipate or render obvious claim 1.

In addition, the Examiner rejected: claim 3 under 35 U.S.C. 103(a) as being unpatentable over Miller (U.S. 6,709,442) or Miller (U.S. 6,837,893) further in view of Wenstrom (U.S. 6,007,566); and claims 2, 4, 8 and 16 under 35 U.S.C. 103(a) as being unpatentable over Miller et al (U.S. 6,709,442) or Miller (U.S. 6,837,893) further in view of Wenstrom (U.S. 6,007,566) and further in view of McGarry et al (U.S. 4,509,518). Applicants submit that these rejections are rendered moot as claims 2-17 are cancelled, but in any event, none of these references alone or in combination render claim 1 obvious. As a result, Applicants request the Examiner to pass claim 1 to allowance.

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The Examiner is requested to contact the undersigned in the event that the Examiner would like to discuss the pending claim.

Respectfully submitted,

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